

surgical procedures, a visco-elastic polyurethane inner shell about 2.5-inches thick disposed within the outer shell, a waterproof circumferential surface enclosing the outer shell, a fluid-based inner cavity encapsulated by the inner shell, the fluid-based inner cavity is filled with compressible shock absorbing fluid, a plurality of speakers emitting low frequency resonance generating fluid sound waves in sonic communication with the fluid-based inner cavity, the speakers are in parallel arrangement throughout the bottom surface of the inner mattress and an external control adapted to adjust the frequency emitted through the speakers.

REMARKS:

Applicant has carefully studied the nonfinal Examiner's Action and all references cited therein. The amendment appearing above and these explanatory remarks are believed to be fully responsive to the Action. Accordingly, this important patent application is now believed to be in condition for allowance.

Applicant responds to the outstanding Action by centered headings that correspond to the centered headings employed by the Office, to ensure full response on the merits to each finding of the Office.

**Claim Rejections – 35 U.S.C. § 103**

Applicant acknowledges the quotation of 35 U.S.C § 103 (a).

Claims 1-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,199,234 to Srour et al. in view of U.S. Patent Publication No. 2002/0108179 to Kiser and U.S. Patent No. 6,493,888 to Salvatini et al.

Regarding independent claim 1, the Office states that Srour et al. discloses a mattress comprising an inner shell and an outer shell, and that although Srour fails to teach the said shells being formed of visco-elastic polyurethane material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use visco-elastic polyurethane for the inner and outer shells since other suitable materials are within the scope of the Srour disclosure.

The Office concludes that while Srouer fails to teach a fluid-filled cavity encapsulated by the inner shell, Kiser discloses a cushion comprising a fluid-based cavity encapsulated by a shell and that it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the inner shell and coil springs of Srouer with the fluid-filled cushion of Kiser as to provide "enhanced, adjustable support and comfort" to the infant.

The Office additionally states that while Srouer fails to teach a plurality of speakers in sonic communication with the fluid-based inner cavity, Salvatini discloses a pediatric mattress comprising a speaker in sonic communication with a fluid based cavity at col. 4, lines 35-40. As such, the Office concludes that it would have been obvious to one having ordinary skill in the art at the time of the invention to provide a speaker in sonic communication with the fluid-filled bladder so as to provide percussion/vibration therapy to the infant.

Applicant respectfully traverses the finding of the Office. Salvatini describes a pediatric mattress comprising a percussion therapy system such that the audio or sound therapy is directed through the sleep surface or across the sleep surface, depending upon the embodiment selected. As such, the percussion therapy system described by Salvatini does not affect the sleep surface itself, but rather the speakers of the percussion system are positioned to direct the therapy through the sleep surface or across the sleep surface. Accordingly, combining the fluid-filled bladder of Srouer with the percussion therapy system of Salvatini would not result in the present invention.

The amendment presented to claim 1 in this response, clearly recites the limitation that the positioning of the speakers is such that a sonic wave is established within a fluid of the fluid-based inner cavity. Salvatini does not describe a placement of the speakers that would be effective in establishing a sonic wave within a fluid as disclosed and claimed by the present invention. By contrast, Salvatini describes at col. 3, beginning at line 26, inflatable bladders that are filled with a gas, foam, gel or particulates to provide a support sleep surface. While the placement of speakers contemplated by Salvatini includes a variety of locations, Salvatini does not describe placement of the speakers coincident with a fluid filled cavity such that a sonic wave is established.

The motivation to combine the speaker system of Salvatini with the fluid-filled cushion of Srouer must be found in the references themselves. Neither Savatini nor Srouer suggest the placement of

a percussion system coincident with a fluid-filled cushion. As such, the Office has failed to show motivation for the combination of Srour and Salvatini that would result in the present invention as disclosed and claimed.

For the reasons cited above, Applicant believes that amended independent claim 1 is patentable and is believed to be in condition for allowance.

Claim 2-11 are dependent upon claim 1, and are therefore allowable as a matter of law.

If the Office is not fully persuaded as to the merits of Applicant's position, or if an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (727) 507-8558 is requested.

Very respectfully,

SMITH & HOPEN

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Dated: October 5, 2004

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CERTIFICATE OF FACSIMILE TRANSMISSION  
(37 C.F.R. 1.8(a))

I HEREBY CERTIFY that this Amendment A is being transmitted by facsimile to the United States Patent and Trademark Office, Art Unit 3673, Attn.: Tuyet Phuong Pham Luu, (703) 872-9326 on October 5, 2004.

Dated: October 5, 2004

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